

### **REMARKS**

Claims 1-11, 13-21, 23-37 are pending in this application. Claims 12 and 22 are cancelled. Of the pending claims, claims 1, 6, 34, and 36 are independent.

The Examiner rejects all claims as lacking an inventive step over Kiliaan et al. (WO 01/84961) in view of Japanese Publication 61078351 or Geiss (U.S. 2004/0120985).

#### **Rejections Under 35 U.S.C. § 112, second paragraph**

Claims 1-11, 13-21, and 23-33 were rejected as indefinite. Claims 14 and 24 have been amended to meet the specific rejections of the outstanding section 112 rejections. The remainder of the rejections as to the other claims have been addressed by the general amendments to the claims which clarify a food (see claim 1) and specialized food (see claim 6).

#### **Rejections Under 35 U.S.C. § 103(a)**

Claims 1-11, 14-21, and 23-33 were rejected under 35 U.S.C. § 103(a) as unpatentable over JP61078351 in view of WO 01/84961 to Kiliaan et al.

Claim 13 was rejected under 35 U.S.C. § 103(a) as unpatentable over JP 61078351 in view of Kiliaan et al. and further in view of U.S. Pub. No. 2004/0120985 to Geiss et al.

#### **The References**

##### **1. Kiliaan**

Kiliaan et al. describe a composition for the treatment of vascular disorders consisting of three components, namely a long-chain polyunsaturated fatty acid, a phospholipid component and a further component which is a factor in methionine metabolism. In Kiliaan's Example 5, Kiliaan merely mixes ingredients and does not create a matrix of (i) a supporting material

selected from the group consisting of carbohydrates, proteins, hydrophobic materials, hydrophobic polymers, mineral components, and mixtures thereof, and (ii)  $\geq 5\%$  by weight of an acetone-insoluble phospholipid components

Kiliaan is distinguished because (1) "consisting of" (see independent claim 1) excludes one of that reference's active components, the factor in methionine metabolism; and (2) *Kiliaan never describes stabilizing the phospholipid as a part of a matrix (the phospholipid on a support) as opposed to just mixing up ingredients which would not necessarily put the phospholipid onto the supporting material.*

2. JP 61078351

JP '351 describes lecithin and food coated with gelatin. The Examiner acknowledges that JP '351 does not teach making functional food to be in various forms as claimed.

JP '351 does not suggest putting gelatin capsules of lecithin (a phospholipid) into a food. It also does not suggest any amount of acetone insoluble phospholipid in the gelatin capsules.

3. Geiss et al.

Geiss et al. disclose a food item for enhancing cognitive capacity. Although Geiss et al. disclose a composition comprising carbohydrates, proteins, phosphatidylserine, vitamins and fat, Geiss et al. do not teach any matrix which is suitable for stabilizing the phospholipids.

**The Combination Of Kiliaan and JP '351 Does Not Suggest The Claimed Invention**

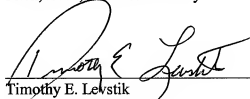
Kiliaan does not suggest a *matrix* of supporting material and a phospholipid component. JP '351 does not describe or suggest blending a matrix as claimed with food. JP '351 puts the food into capsules. Geiss does not fill any gap between Kiliaan and JP '351 as it also does not suggest a matrix.

**Conclusion**

Claim 1 includes “consisting of” and eliminates the methionine metabolism component required by Kiliaan. Also Kiliaan does not suggest a matrix. Kiliaan and JP ‘351 does not suggest the matrix as described in independent claims 1, 6, 34 and 35. Certainly neither reference remotely suggests a food product comprising a phospholipid-containing stable matrix comprising (i) a support and (ii)  $\geq 5\%$  by weight an acetone-insoluble phospholipid component *applied to the support*. See independent claim 35.

The Commissioner is hereby authorized to charge any additional fees which may be required in this application under 37 C.F.R. §§1.16-1.17 during its entire pendency, or credit any overpayment, to Deposit Account No. 06-1135. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1135.

Respectfully submitted,  
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